

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BODUM USA, INC.,
a Delaware Corporation,

Plaintiff,

V.

LA CAFETIÈRE, INC.,
an Illinois corporation,

Defendant.

Case No. 07-CV-06302

Judge Matthew F. Kennelly

JURY TRIAL DEMANDED

**DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S COMPLAINT PURSUANT TO
FED. R. CIV. P. 12(b)(6)**

Defendant La Cafetière, Inc., moves this Court to dismiss Plaintiff Bodum USA, Inc.'s amended complaint for failure to state a claim upon which relief can be based pursuant to Fed. R. Civ. P. 12(b)(6). In support of its motion, La Cafetière, Inc. incorporates the accompanying memorandum and states as follows:

1. On November 8, 2007, Plaintiff filed a three-count amended complaint against Defendant, La Cafetière, Inc., seeking injunctive relief and damages and alleging trade dress infringement and state law claims regarding the configuration of its french-press coffee maker.

2. Plaintiff's amended complaint, however, fails to address the critical issue of non-functionality. Because of this deficiency, plaintiff's amended complaint does not sufficiently allege a cause of action pursuant to the Lanham Act § 43(a), Illinois common law, or the Illinois Uniform Deceptive Trade Practices Act.

3. Defendant La Cafetière respectfully requests that this Court enter an Order dismissing Plaintiff's amended complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6), and grant such other relief as the Court may deem proper.

December 17, 2007

Respectfully submitted,

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